IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.730 OF 2006.
WITH
CRIMINAL WRIT PETITION NO. 731 OF 2006.

M/s.Yogesh Associates ... Petitioner
(In both petitions)

Versus.

The State of Maharashtra & anr. ... Respondents.
(In both petitions)

Shri Subhash Jha i/by M/s.Law Global for the Petitioner.

Mrs.M.M.Deshmukh, A.P.P. for the Respondent-State.

CORAM : ABHAY S.OKA, J.

DATED : 9th October, 2006.

P.C.:

1. Heard the learned Counsel appearing for the Petitioner in both the petitions. For the sake of convenience, reference is made to the facts of Criminal Writ Petition No.731 of 2006.

2. At the instance of the 2nd Respondent i.e. the Food and Drug Administration, certain bags of Goa 1000 Gutkha were seized from a vehicle. The Petitioner applied for return of the said seized property. The Food Inspector on behalf of the 2nd Respondent applied for permission of the Court to destroy the seized property. By a common order, both the Applications were rejected by the learned Magistrate on 22nd August 2005. The application of the Petitioner was rejected simplicitor and the application of the 2nd Respondent was rejected with liberty to file application at

appropriate stage. The Revision Application filed by the Petitioner has been rejected by the Sessions Court.

3. Shri Jha, the learned Counsel appearing for the Petitioner, states that at that stage the Petitioner was interested in repossessing the seized property. He states that by passage of time, the property is no longer useful for the Petitioner as its expiry date is already over. He, therefore, states that direction may be given as regards destruction of the property as even the 2nd Respondent had applied for destruction.

4. I have considered the submissions. The Application made by the 2nd Respondent was rejected with liberty to the 2nd Respondent to file a fresh application at a later stage. The said order is not challenged by the 2nd Respondent. It is for the 2nd Respondent to take appropriate steps before the trial Court in that behalf. The Petitioner never applied for destruction of the property. Therefore, in this petition the Petitioner cannot get that relief. If at all destruction is to be permitted, the trial Court will have to decide at what stage it is to be done considering the provisions of law.

5. Subject to what is stated above, the Writ Petitions are rejected.

6. At this stage the learned Advocate for the Petitioner prays that the Petitioner may also be granted liberty to take out application before the trial Court praying for destruction of the property. If it is permissible for the Petitioner in law to make such an application, this order will not prevent the Petitioner from doing so. All contentions of the parties on merits of the pending case are expressly kept open.

Judge.